

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

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DEC 26 2006

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 9 of 18 pages*

**REMARKS**

Applicants thank the Examiner for the very thorough consideration given the present application.

Claims 1-2, 4-12, 14-18, and 35-38 are now pending in this application. Claims 1, 37 and 38 are independent. Claim 3, 19-25 and 33-34 have been canceled. Claims 37 and 38 have been added. Claims 1-2, 4-12, 14-18, and 35-36 have been amended.

Reconsideration of this application, as amended, is respectfully requested.

**Drawing Objections**

The Examiner has objected to the drawings for failing to illustrate a storage unit as a rack having sides which are substantially open, as recited in claim 3. Applicants note that claim 3 is a dependent claim, and that at least independent claim 1 is broad enough to encompass storage cabinets with more than one open side. As such, Applicants have elected to cancel claim 3 in order to render the objection to the drawings moot.

**Rejection Under 35 U.S.C. §102(b)**

Claim 33 stands rejected under 35 U.S.C. §102(b) as being anticipated by Rowan, Sr. et al. (U.S. 5,806,948). This rejection is respectfully traversed.

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 10 of 18 pages*

Claim 33 has been canceled. Therefore, this rejection has been rendered moot. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

**Rejection Under 35 U.S.C. §103(a)**

Claims 1, 9, 18, and 34-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rowland, Sr. et al. (U.S. 5,806,948) in view of Wennlund (U.S. 2,610,035) and further in view of Eckersley et al. (U.S. 5,297,645) and even further in view of Dolling (U.S. 5,779,064). This rejection is respectfully traversed.

Most all inventions are formed by a combination of pre-existing structures. One can take nearly any invention described in any U.S. Patent, dissect it, and show that the underlying parts are found in various prior art references. However, the standard for patentability resides in whether or not it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the various prior art references to arrive at the claimed invention. In other words, (1) are the various prior art references pertinent prior art, i.e. prior art that would have been known to one of ordinary skill in the art in the field of the invention's endeavor, and (2) is there a motivation, apart from the Applicants' own disclosure, to have combined the various prior art references? Here, it is respectfully submitted that the alleged combination of references fails tests (1) and (2) above.

Regarding test (1), MPEP 2141(a) discusses analogous and nonanalogous art. The section heading is "I. To rely on a reference under 35 U.S.C. 103, it must be analogous art."

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 11 of 18 pages*

To be analogous art, "the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention is concerned." In re Oetiker 24 USPQ2d 1443, 1445. To determine what is "reasonably pertinent," the MPEP states, "A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, **logically would have commended itself to an inventor's attention in considering his problem.**"; Wang Laboratories Inc. v. Toshiba Corp., 26 USPQ2d 1767 (Fed. Cir. 1993).

Applicants agree that Rowland, Sr. et al.'s invention is in the analogous art of telecommunication cabinets designed for storing batteries. However, Wennlund is certainly nonanalogous art to the present invention and to Rowland, Sr. et al. Wennlund discloses a refrigeration cabinet for use on a dairy farm for storing milk cans (of the type used in the late 1940's). This is not Applicants' field of endeavor. Also, a cabinet for storing milk cans would not have logically commended itself to an inventor's attention in the telecommunication cabinet art. It is doubted that such milk cans or storage techniques are still in use, and even if they are, they would be quite foreign to the minds of inventors in the telecommunication cabinet arts.

Eckersley et al.'s invention is also certainly nonanalogous art to the present invention and to Rowland, Sr. et al. Eckersley et al. disclose a fork lift-type truck. Fork lift trucks and warehousing of materials are not in the Applicants' field of endeavor. Also, an

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 12 of 18 pages*

inventor in the telecommunication cabinet art would not logically have looked to a fork lift truck design for modifications to a telecommunication cabinet.

Moreover, it compounds the issue and renders the combination of references even more inappropriate when considering that a telecommunication cabinet (Rowland Sr. et al.) is being modified by a structure found in a milk can storage unit and then further modified by a teaching found in a fork lift truck. Applicants cannot be charge with complete knowledge of all structures found in the Patent literature. To do such, would negate the requirement of the Office to distinguish between analogous and nonanalogous art, and would render nearly all inventions unpatentable. Moreover, there would be no logical motivation to one of ordinary skill in the art of telecommunication cabinets to look to the arts of milk can storage systems and fork lift trucks for solutions to problems in the telecommunication cabinet art.

Dolling teaches a vending shelf of the type used in grocery stores to display packaged goods. The wheel track 3 is slightly inclined toward the package removal end (col. 2, lines 37-39 and see the "flow" arrow in Figure 2). A stop face 7 prevents packaged goods from falling off of the wheel track 3 due to gravity.

There would appear to be no motivation to add the wheel track 3 of Dolling to the storage cabinet of Rowland, Sr. et al.'s cabinet for many reasons. First, Rowland Sr. et al.'s storage cabinet already has rollers 42, absent some taught advantage of the Dolling wheel track 3, there would appear to be no motivation to replace the rollers 42 of Rowland Sr. et al. with the wheels 3a, 3b, ... 3g of Dolling. Dolling does teach that his wheel track 3 is easy to

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 13 of 18 pages*

install on a rack system. Dolling's wheel track 3 is designed to snap engage over tongues 5 of a rack (see Figure 3). However, Rowan Sr. et al.'s storage cabinet fails to include such tongues 5, and therefore the ease of assembly advantage would not apply.

Even if one were to combine the wheel track 3 of Dolling with the storage cabinet of Rowland Sr. et al., the resultant structure would fail to meet the claim limitations of Applicants' claim 1 and would be inoperable. Dolling shows a stop face 7 at the end of the wheel track 3 to keep the forward most packaged good from falling off of the end of the wheel track 3. If Dolling were combined with Rowland Sr. et al., the stop face 7 would not permit the tray to pass onto the roller shelf, as is required in Claim 1.

In consideration of the above remarks, reconsideration and withdrawal of this rejection are respectfully requested.

**Rejection Under 35 U.S.C. §103(a)**

Claims 1-8, 10-12, and 14-17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Holt et al. (U.S. 6,563,048) in view of Wennlund (U.S. 2,610,035) and further in view of Eckersley et al. (U.S. 5,297,645). This rejection is respectfully traversed.

Again, it is asserted that the proposed combination of references must fail. One of ordinary skill in the art would simply not have found it obvious to pick and chose features from the power backup system art (Holt et al.), the milk can storage art (Wennlund) and the fork lift truck art (Eckersley et al.) to arrive at the claimed invention.

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 14 of 18 pages*

Wennlund is certainly nonanalogous art to the present invention and to Holt et al. Wennlund discloses a refrigeration cabinet for use on a dairy farm for storing milk cans (of the type used in the late 1940's). This is not Applicants' field of endeavor, nor is it remotely related to Holt et al.'s invention. The motivation to combine such diverse fields of technology is lacking. Also, a cabinet for storing milk cans would not have logically commended itself to an inventor's attention in the telecommunication cabinet art. It is doubted that such milk cans or storage techniques are still in use, and even if they are, they would be quite foreign to the minds of inventors in the telecommunication cabinet art or the power backup supply art.

Eckersley et al.'s invention is also certainly nonanalogous art to the present invention and to Holt et al. Eckersley et al. disclose a fork lift-type truck. Fork lift trucks and warehousing of materials are not in the Applicants' field of endeavor. Also, an inventor in the telecommunication cabinet art would not logically have looked to a fork lift truck design for modifications to a telecommunication cabinet.

Moreover, it compounds the issue and renders the combination of references even more inappropriate when considering that a power backup supply cabinet (Holt et al) is being modified by a structure found in a milk can storage unit and then further modified by a teaching found in a fork lift truck. Applicants cannot be charge with complete knowledge of all structures found in the Patent literature. To do such, would negate the requirement of the

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 15 of 18 pages*

Office to distinguish between analogous and nonanalogous art, and would render nearly all inventions unpatentable.

In consideration of the above remarks, reconsideration and withdrawal of this rejection are respectfully requested.

**Dependent Claims**

All dependent claims are in condition for allowance due to their dependency from allowable independent claims, as well as for the additional limitations set forth therein.

(1) Regarding dependent claim 11, Applicants can find no discussion of the claimed "interlock to prevent the tray from moving prior to attaching the roller shelf to the storage unit" in the applied references of Holt et al., Wennlund or Eckersley et al. The Examiner is requested to point out the structure in the references which is being relied upon.

(2) Regarding claim 12, the Examiner has taken official notice that it is well known in the art to provide a storage compartment with openings on two opposite sides. The Applicants contest this assertion. Holt et al. directly states in col. 7, lines 6-9, that "[a]ll access for operation or service is made through the front only, so that the battery cabinet can be mounted against the wall with other cabinets mounted on each side." To modified Holt et al.'s cabinet to have access at opposite sides would be contrary to his direct statement that access is "only" via the front, and would destroy the object of the invention to conserve floor space by mounting the cabinet against the wall. **In accordance with MPEP 2144.03, the**

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 16 of 18 pages*

**Examiner should now supply a reference for the alleged well know feature and provide the motivation to modify the Holt et al. reference.**

(3) Regarding claim 17, the Examiner states on page 5, lines 7-9, that in Holt et al.'s system, "the roller shelf 'may be stored' above the batteries in the storage compartment." This is pure speculation unsupported by the Holt et al. disclosure. Holt et al. make no such showing or suggestion. In contradistinction, the illustration in Figure 7A of Holt et al. appears to show the width of the roller shelf (due to the two shoulders) to be greater than the width of the opening in the storage compartment, rendering it impossible to insert the roller shelf into the more narrow space above the batteries in the storage compartment.

**Added Claims**

New claims 37 and 38 are exactly claims 12 and 17 rewritten into independent form, respectively. Claims 12 and 17 were previously rejected under 35 U.S.C. §103(a) as being unpatentable over Holt et al. (U.S. 6,563,048) in view of Wennlund (U.S. 2,610,035) and further in view of Eckersley et al. (U.S. 5,297,645). As pointed out above, there is no motivation to one of ordinary skill in the art to combine these three nonanalogous references. Also none of these references shows or suggests a cabinet with openings on two opposite sides (claim 37) or a roller shelf even having an ability to be stored above batteries in the storage compartment (claim 38).



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DEC 26 2006

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 17 of 18 pages*

Regarding old claim 12, now claim 37, Holt et al. teaches away from providing openings on two opposite sides.

Regarding old claim 17, now claim 38, the shelf is too large in Holt et al. The shelf is too large in Wennlund and is also fastened to the outer face of the cabinet by screws. And, there is no shelf in Eckersley et al.

**As such claim 12 (now claim 37) and claim 17 (now claim 38) should not have been rejected applying the three listed references, and entry of this Amendment is hereby requested to allow the Examiner to consider the patentability of claims 37 and 38.**

### **CONCLUSION**

In the event that any outstanding matters remain in this application, the Examiner is invited to contact the undersigned at (703) 621-7140 in the Washington, D.C. area.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

*Application No. 10/651,041*  
*Amendment dated December 26, 2006*

*Docket No.: 4799-0119P*  
*Art Unit 3637*  
*Page 18 of 18 pages*

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3828 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: December 26, 2006

Respectfully submitted,

By

  
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